ACTION MEMORANDUM

EXCISE

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TO: The Deputy Secretary

FROM: EB - Mr. Katz
HA - Mrs. Derian
AID - Robert H. Nooter

SUBJECT: PL 480 Title I -- Human Rights Reporting Requirements

Issue for Decision

The issue is when and how PL 480 Title I agreements should be amended to require that the food or proceeds directly benefit the needy. There basically are three possibilities: 1) apply this additional requirement only to countries specifically identified as gross human rights violators; 2) apply it to a limit number of human rights problem countries; or 3) apply it to all future Title I agreements

A related but separate decision is what procedure should be followed for review of proposed Title I allocations.

Essential Factors

The issue arises due to the inclusion in PL 480 legislation of a new Human Rights amendment (Section 112). That provision states in part that "no Title I agreement may be entered into with a country that engages in a consistent pattern of gross violations of human rights . . . unless such agreement will directly benefit the needy people in such country." This will not occur "unless either the commodities themselves or the proceeds from their sale will be used to directly benefit the needy" and finally "the agreement shall specify how the projects or programs will be used to benefit the needy people." Congressional committees may require the President to demonstrate that specific agreements will directly benefit needy people, and the President must submit an annual report to the Congress on steps taken to

DEPARTMENT OF STATE A/GGG/MR
REVIEWED BY: [illegible] DATE: 12/16/84
RDS ☐ XDS ☐ DATE:
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ENDORSE EXISTING MARKINGS ☐
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EXEMPTIONS (b)(1)

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[redacted] agreements with [redacted] consistent pattern of gross violations, but the requirement could of course be imposed in agreements with any government.

All Title I agreements already include general "self-help" provisions under which recipient countries agree to undertake agricultural development projects and programs. Legislation directs the Executive Branch to consider particularly the extent to which self-help efforts "contribute directly to development progress in poor rural areas and to enable the poor to participate actively in increasing agricultural production." Annual reports on self-help progress are required from recipient governments, and some monitoring of self-help project expenditures occurs. We do not, however, require recipient governments to demonstrate how food or proceeds will specifically help the needy.

[redacted] (supported by USDA)

[redacted]

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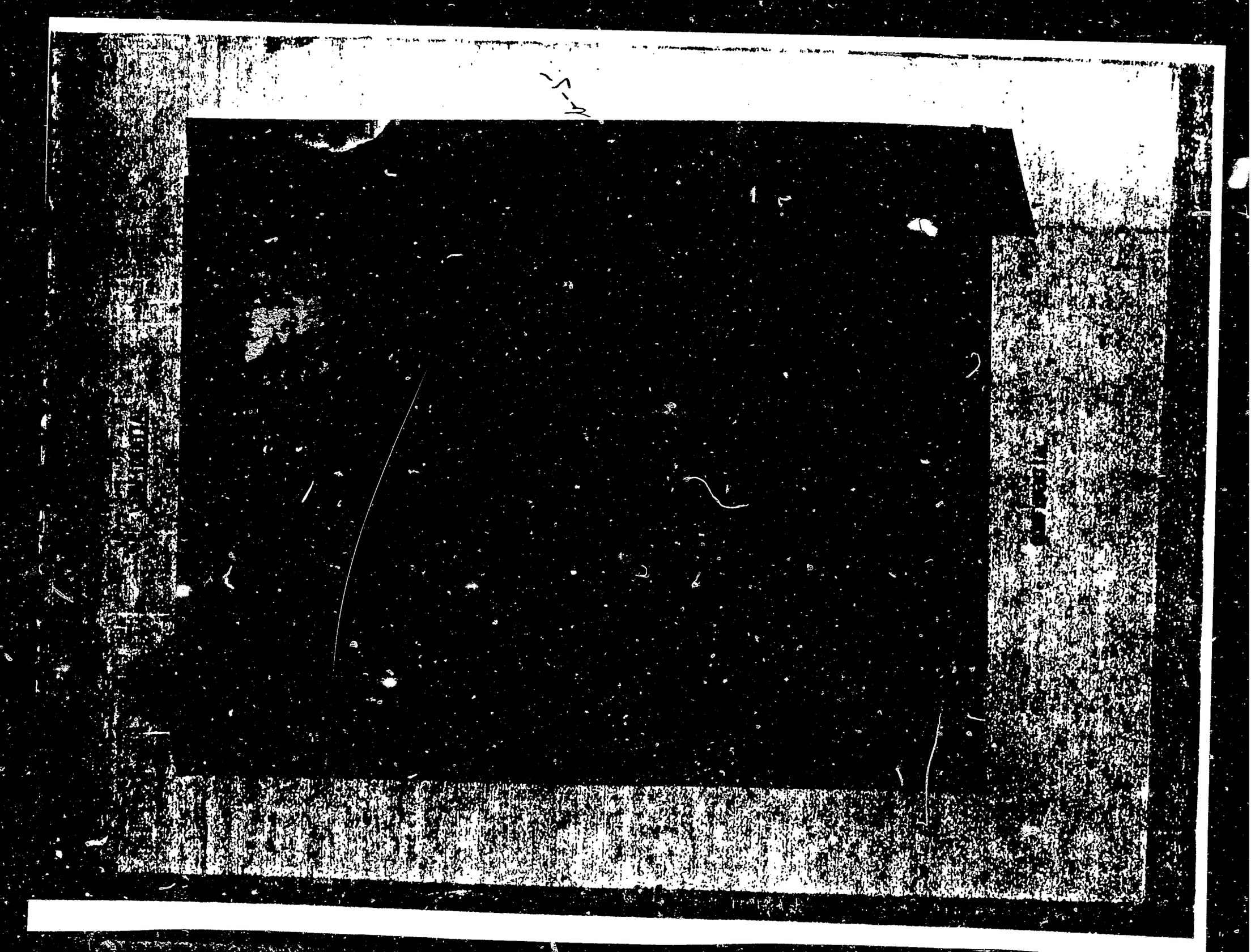
COMMENTS



AID View:

AID believes applying the Section 112 requirement, that food or local currencies directly benefit the needy, to all Title I agreements, would not be a workable solution. It would strain our political relations with recipient countries, overburden the administrative systems of countries which do not have human rights problems, and could threaten the continuation of large and important programs such as Egypt.

At the same time, AID recognizes HA's argument that it would be difficult to limit the application of Section 112 to governments that are found to be consistent violators without establishing a "hit list". The Administration could therefore reasonably apply Section 112 more broadly to governments about whose record there is a serious question. This is the standard now being applied by AID in its review of Development Assistance programs.

AID therefore proposes that when the Christopher Committee reviews PL 480 allocations at the beginning of each year it determine which governments are in the questionable category. PL 480 Title I sales agreements with those governments will then be written to include the conditions required by Section 112. Their wording would be carefully drafted to avoid accusations and yet make clear the intent of the legislation.

Section 112 requires much more than reports from purchasing governments with human rights problems: the commodities or local currency proceeds must be used for specific identified projects and programs which directly benefit needy people, and the agreements must say how the projects and programs will do that. This directive is substantially different from current legal requirements and policy relating to Title I sales in general. Under that policy, as laid down by Congress, "emphasis" is to be placed on reaching needy people. We have not insisted that transactions be identified with specific programs or projects where a direct benefit to needy people can be shown. This approach allows an important degree of flexibility in programming for various purposes, within the basic stipulation that there be a needy [illegible]

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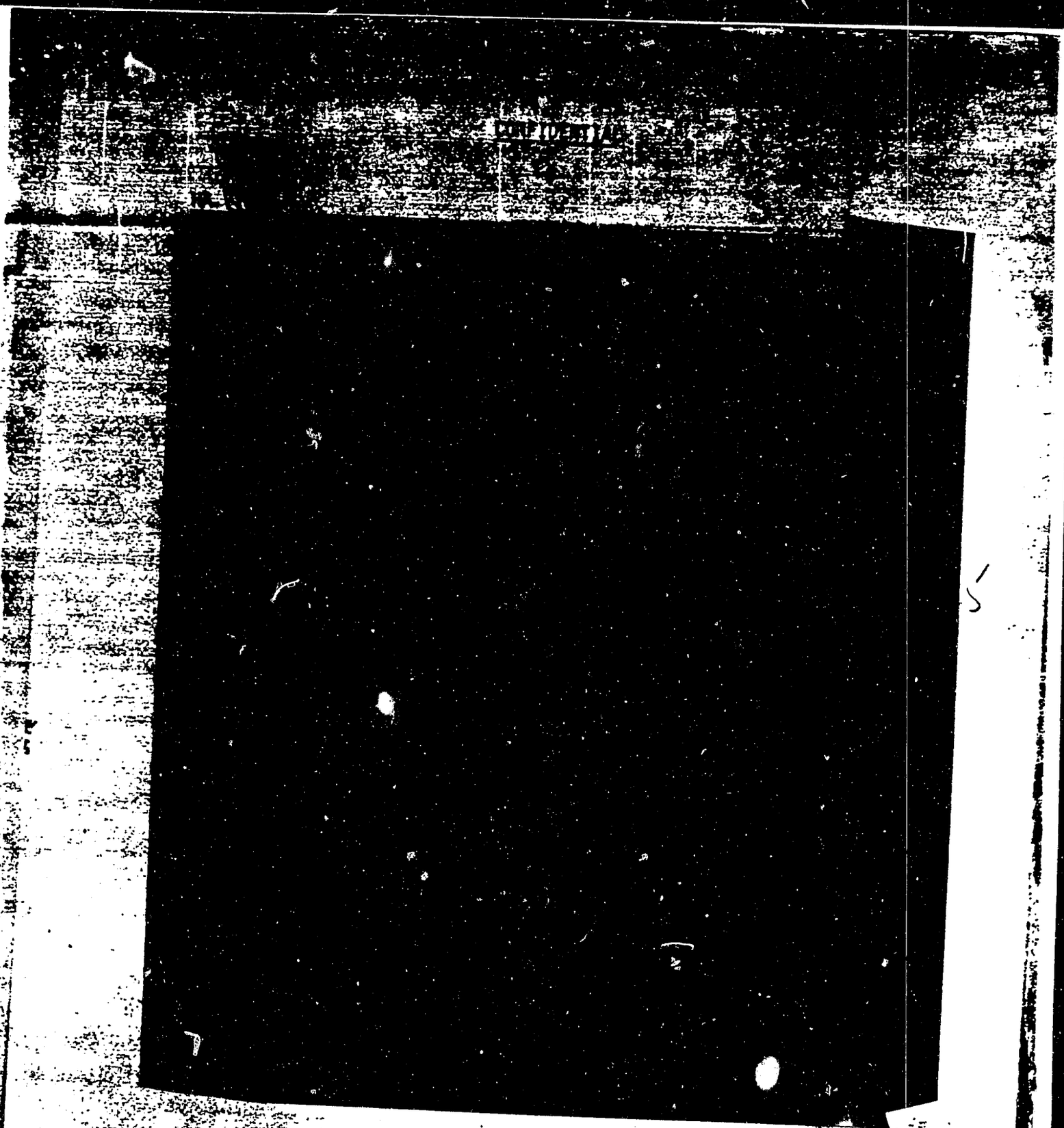
In the new Section 112, Congress clearly had the new requirements in mind only for governments where serious human rights problems exist. An attempt to apply the requirements to all agreements would require substantial changes in the terms now in general use in Title I agreements, reduce AID's flexibility in negotiating these agreements, and create a significant impediment to the sale of American agricultural commodities which Congress did not contemplate. On the other hand, until specific violators are designated, the EB proposal will look like an inadequate response to Congressional intent.

As a practical matter, moreover, it is not possible to reserve judgment until after agreements have been entered into on what reports will be required from the purchasing governments. The governments can realistically report only on the basis of accounting systems set up and made operational well before the commodities are distributed or the proceeds generated.

The proposal to include the Section 112 provision in all agreements seeks to avoid public identification of troublesome countries and to permit the U.S. to use PL 480 to show displeasure with a lack of progress on human rights after an agreement is signed. The AID recommendation also allows these objectives to be met. By focusing on troublesome governments, the Executive Branch will not designate violators, and we shall always have ways of indicating displeasure -- including, if necessary, adding Section 112 requirements to new PL 480 agreements that might be negotiated.

There is no approach open to the Executive Branch which will guarantee the secrecy of human rights problems of governments with which we deal. The problem-governments are aware that they have a problem. Congressional hearings and other public testimony, as well as press reports, will make it clear which countries are troublesome. In any case, the Executive Branch must account for measures it takes at least once a year.

The all-agreements proposal could raise public and Congressional suspicions about the Administration's good faith in carrying out human rights measures. At a time when MODE restraints and AID "effectiveness" are important issues, it would further clog the system with additional manpower requirements and paper. The AID proposal, on the other hand, would impose an additional but manageable workload on purchasing governments, AID missions, Embassies, and Washington review offices by limiting the requirements to cases where a real effort must be made to assure adherence to the legislation.



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[redacted] Interagency Group reached a consensus that PL 480 Title I allocations should be reviewed by that group before the quarterly submissions to Congress. In addition, as agreements with human rights problem countries come up for negotiation during the year, the Interagency Group may be asked to review them for consistency with human rights criteria.

The Group strongly recommended that PL 480 allocations be considered as soon as possible in relation to other policy levers in the context of individual country evaluations.

RECOMMENDATIONS

[redacted]

Option 2 (AID supports)

That Agreements be drafted to include the Section 112 requirements only for those governments about whose human rights record there is a serious question.

Agree NOV 9 1977 Disagree

[redacted]

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Allocation Procedures

That the Interagency Group review allocations to all countries on a quarterly basis and, for individual countries with problems, again when agreements come up for coordination by the Interagency Staff Committee on PL 480.

NOV 4 1977

Agree HC Disagree

Drafter:HA/HR:M.Bova:nfc/lw:11/5/77
AID:J.Silverstone (PPC/PDA/CP)
EB/OFP/FFD-RMOgden
Concurrence:HA:M.Schneider
AID:A.Shakow/M.Butler
EB:M.Creekmore

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